

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HOVIK FITERZ,

Defendant.

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8:10-cr-00203-LSC-FG3

ORDER

This matter is before the court on the defendant's motion to continue the suppression hearing set for October 13, 2010 (Doc. [35](#)). The hearing was originally set for August 24, 2010. Present counsel entered an appearance on August 23, 2010 and requested a continuance. On August 24, 2010, the court entered an order granting the defendant's request and continuing the suppression hearing to October 13, 2010.

The Minute Order attached to the instant motion indicates that defense counsel appeared in California state court on September 22, 2010 and erroneously advised the state court judge that he was available to proceed with a jury trial in the Orange County Superior Court to commence October 12, 2010. (Exhibit to Doc. [35](#)).

This court is not one of the "many federal bench officers [who] do not pay deference to state court matter." However, defense counsel was already booked to appear in this court for a suppression hearing, in Nebraska, when he represented to the state court that he was available to start a jury trial in California at the same time.

IT IS ORDERED that the defendant's motion (Doc. [35](#)) is denied. The hearing on the defendant's motion to suppress (Doc. [20](#)) remains set for Wednesday, October 13, 2010.

A party may object to a magistrate judge's order by Doc. an "Objection to Magistrate Judge's Order" within 14 days after being served with the order. The objecting party must comply with all requirements of NECrimR 59.2.

DATED October 4, 2010.

BY THE COURT:

**s/ F.A. Gossett, III
United States Magistrate Judge**